



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 20, 30, 40, 50, 70, and 72

RIN 3150-AI55

[NRC-2011-0286; NRC-2008-0030]

Decommissioning Planning During Operations

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory guide; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment draft regulatory guide (DG) DG-4014, "Decommissioning Planning During Operations." This guide describes a method that the NRC staff considers acceptable for use in complying with the NRC's Decommissioning Planning Rule.

DATES: Submit comments by February 10, 2012. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

ADDRESSES: Please include Docket ID NRC-2011-0286 in the subject line of your comments. For additional instructions on submitting comments and instructions on accessing documents related to this action, see "Submitting Comments and Accessing Information" in the

SUPPLEMENTARY INFORMATION section of this document. You may submit comments by any one of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for documents filed under Docket ID NRC-2011-0286. Address questions about NRC dockets to

Carol Gallagher, telephone: 301-492-3668; e-mail: Carol.Gallagher@nrc.gov.

- **Mail comments to:** Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB-05-B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

- **Fax comments to:** RADB at 301-492-3446.

FOR FURTHER INFORMATION CONTACT: James C. Shepherd, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: (301) 415-6712 or e-mail James.Shepherd@nrc.gov

SUPPLEMENTARY INFORMATION:

Submitting Comments and Accessing Information

Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site, <http://www.regulations.gov>. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

You can access publicly available documents related to this document using the following methods:

- **NRC's Public Document Room (PDR):** The public may examine and have copied, for a fee, publicly available documents at the NRC's PDR, O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

- **NRC's Agencywide Documents Access and Management System (ADAMS):**

Publicly available documents created or received at the NRC are available online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. From this page, the public can gain entry into ADAMS, which provides text and image files of the NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. DG-4014 is available electronically under ADAMS Accession Number ML111590642. The regulatory analysis is available electronically under ADAMS Accession Number ML111590649.

- **Federal Rulemaking Web Site:** Public comments and supporting materials related to this notice can be found at <http://www.regulations.gov> by searching on Docket ID NRC-2011-0286.

Further Information

The NRC is issuing for public comment a draft guide in the agency's "Regulatory Guide" series. This series was developed to describe and make available to the public such information as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

The draft regulatory guide entitled, "Decommissioning Planning During Operations," is temporarily identified by its task number, DG-4014, which should be mentioned in all related correspondence. DG-4014 is a proposed Regulatory Guide to support implementation of the Decommissioning Planning Rule (ADAMS Accession Number ML103510117).

This guide describes a method that the NRC staff considers acceptable for use in complying with the NRC's Decommissioning Planning Rule (DPR), which will become effective on December 17, 2012 (76 FR 35511; June 17, 2011). That rule will amend portions of 10 CFR Parts 20, 30, 40, 50, 70, and 72, relative to decommissioning planning. The DPR will affect a wide range of facilities and its purpose is to reduce the likelihood that any current operating facility will become a legacy site, that is, one without the financial means to close permanently.

Backfitting and Issue Finality

The statement of considerations for the DPR discussed that rule's compliance with applicable backfitting provisions (76 FR 35511, at 35562-63). This regulatory guide presents the NRC staff's first guidance addressing compliance with § 20.1501(a) and (b) and the newly-added paragraph (c) of § 20.1406. The first issuance of guidance on a newly-changed or newly-added rule provision does not constitute backfitting or raise issue finality concerns, inasmuch as the guidance must be consistent with the regulatory requirements in the newly-changed or newly-added rule provisions and the backfitting and issue finality considerations applicable to the newly-changed or newly-added rule provisions must logically apply to this guidance. Therefore, issuance of guidance addressing the newly-changed and newly-added provisions of the amended rule does not constitute issuance of "changed" or "new" guidance within the meaning of the definition of "backfitting" in 10 CFR 50.109(a)(1). Similarly, the issuance of the guidance addressing the newly-changed or newly-added provisions of the amended rule, by itself, does not constitute an action inconsistent with any of the issue finality provisions in 10 CFR Part 52. Accordingly, no further consideration of backfitting or issue finality is needed as part of the issuance of this guidance addressing compliance with the newly-changed provisions of § 20.1501 and newly-added paragraph (c) of § 20.1406.

This regulatory guide may be applied to applications for operating licenses and combined licenses docketed by the NRC as of the date of issuance of the final regulatory guide,

as well as future applications for operating licenses and combined licenses submitted after the issuance of this regulatory guide. Such action does not constitute backfitting as defined in 10 CFR 50.109(a)(1) and is not otherwise inconsistent with the applicable issue finality provisions in 10 CFR Part 52, inasmuch as such applicants or potential applicants are not within the scope of entities protected by the Backfit Rule or the relevant issue finality provisions in Part 52.

Dated at Rockville, Maryland, this 2nd day of December, 2011.

For the Nuclear Regulatory Commission.

/RA/

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